



H.B. 400

124th General Assembly
(As Introduced)

**Reps. Faber, Willamowski, Hoops, Latta, Young, Webster, Schmidt, Husted,
Lendrum, Schaffer**

BILL SUMMARY

- Authorizes a court to order a delinquent child or juvenile traffic offender to be held, at any time after the child attains 18 years of age, in a county, multicounty, or municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held (in addition to a certified foster home or a home approved by the court, a facility operated by a certified child welfare agency, or another suitable place designated by the court).
- Amends the definition of "child" for the purposes of the Juvenile Delinquency/Juvenile Traffic Offender Law to specify that a delinquent child or juvenile traffic offender (JTO), at any time after the child or JTO attains 18 years of age, may be held may be confined in places other than those authorized under that Law solely for confinement of children.
- Amends the delinquent child dispositional option that authorizes the court to commit the delinquent child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children to specifically include a school, camp, or facility operated under R.C. 2151.65.
- Permits a court to commit a delinquent child to the legal custody of a detention facility or district detention facility for up to 90 days.

CONTENT AND OPERATION

Places a child may be confined

Existing law

Generally, an alleged or adjudicated delinquent child or juvenile traffic offender may be held only in a certified foster home, home approved by the court, facility operated by a certified child welfare agency, or other suitable place designated by the court. An alleged or adjudicated delinquent child also may be held in a detention facility for delinquent children under the direction or supervision of the court or other public authority or of a private agency and approved by the court.¹ (R.C. 2152.26(A) and (B).)

An alleged or adjudicated juvenile traffic offender generally may not be held in a secure correctional facility, state correctional institution, county, multicounty, or municipal jail or workhouse, or other place in which an adult convicted of crime, under arrest, or charged with a crime is held. Also, an alleged or adjudicated juvenile traffic offender generally may not be held for more than 24 hours in a detention facility. And an alleged or adjudicated delinquent child generally may not be held in a state correctional institution, county, multicounty, or municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held. (R.C. 2152.26(C) and (D).)

But, if a case is transferred to another court for criminal prosecution, the child may be transferred for detention pending the criminal prosecution in a jail or other facility in accordance with the law governing the detention of persons charged with crime. Any child so held must be confined in a manner that keeps the child beyond the range of touch of all adult detainees, and the child must be supervised at all times during the detention. (R.C. 2152.26(F).)

Operation of the bill

Under the bill, if a delinquent child or juvenile traffic offender is subject to a disposition under the Juvenile Delinquency/Juvenile Traffic Offender Law, at any time after the person attains 18 years of age, the person may be held under that disposition in places other than a certified foster home or a home approved by the court, a facility operated by a certified child welfare agency, or another suitable place designated by the court (the places where such a child generally may be held). These other places include, but are not limited to, a county, multicounty, or

¹ This provision applies to a child alleged to be or adjudicated a delinquent child for truancy only in limited circumstances.

municipal jail or workhouse, or other place where an adult convicted of crime, under arrest, or charged with crime is held. Any person so held must be confined in accordance with the law governing the detention of persons charged with crime and in a manner that keeps the child beyond the range of touch of all adult detainees, and the child must be supervised at all times during the detention. (R.C. 2152.26(B) and (F)(2).)

The bill also amends the definition of "child" for the purposes of the Juvenile Delinquency/Juvenile Traffic Offender Law to specify that a delinquent child or juvenile traffic offender who receives a disposition under the Juvenile Delinquency/Juvenile Traffic Offender Law, at any time after the person attains 18 years of age, may be held in places in addition to the places authorized under that Law solely for confinement of children. In addition, it specifies that the person may be confined under that disposition, in accordance with the provision described in the preceding paragraph, in places other than those authorized solely for confinement of children. (R.C. 2152.02(C)(6).)

Delinquent child dispositions

Existing law

The court may make any of the following orders of disposition for a delinquent child, in addition to any other disposition authorized or required by the Juvenile Delinquency Law (R.C. 2152.19(A)):

- (1) Any order authorized for an abused, neglected, or dependent child;
- (2) Commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children by the county, by a district, or by a private agency or organization, within or without the state, that is authorized and qualified to provide the care, treatment, or placement required;
- (3) Place the child on community control;
- (4) Commit the child to the custody of the court;
- (5) Require the child to not be absent without legitimate excuse from the public school the child is supposed to attend for more than a specified period of time;
- (6) If a child is adjudicated a delinquent child for being a chronic truant or an habitual truant who previously has been adjudicated an unruly child for being an habitual truant, make certain truancy related dispositions;

(7) Make any further disposition that the court finds proper, subject to certain limitations.

Operation of the bill

The bill amends the second disposition option above that authorizes the court to commit the child to the temporary custody of any school, camp, institution, or other facility operated for the care of delinquent children. Under the bill, this option specifically includes, but is not limited to, a school, camp, or facility operated under R.C. 2151.65.² The bill also adds another disposition: the court may commit the child to the legal custody of a detention facility or district detention facility operated under R.C. 2152.41, for up to 90 days.³ (R.C. 2152.19(A)(2) and (3) and 2152.41(A).)

The bill updates the delinquent child DNA specimen collection provisions to reflect these additional disposition options (R.C. 2152.74).

² R.C. 2151.65 provides that, upon the advice and recommendation of the juvenile judge, the board of county commissioners may provide by purchase, lease, construction, or otherwise a school, forestry camp, or other facility or facilities where delinquent children, dependent children, abused children, unruly children, neglected children, or juvenile traffic offenders may be held for training, treatment, and rehabilitation. Upon the joint advice and recommendation of the juvenile judges of two or more adjoining or neighboring counties, the boards of county commissioners of those counties may form themselves into a joint board and proceed to organize a district for the establishment and support of a school, forestry camp, or other facility or facilities for the use of the juvenile courts of those counties, where delinquent, dependent, abused, unruly, or neglected children or juvenile traffic offenders may be held for treatment, training, and rehabilitation.

³ R.C. 2152.41 provides that upon the recommendation of the judge, the board of county commissioners must provide a detention facility within a convenient distance of the juvenile court. The facility must not be used for the confinement of adults charged with criminal offenses. The facility may be used to detain alleged delinquent children until final disposition for evaluation and for children adjudicated juvenile traffic offenders. Upon the joint recommendation of the juvenile judges of two or more neighboring counties, the boards of county commissioners of the counties must form themselves into a joint board and proceed to organize a district for the establishment and support of a detention facility for the use of the juvenile courts of those counties, in which alleged delinquent children may be detained. A child who is adjudicated to be a juvenile traffic offender for having committed state OMVI or violated a substantially similar municipal ordinance may be confined in a detention facility or district detention facility, provided the child is kept separate and apart from alleged delinquent children.

The bill also makes a number of cross-reference changes related to the amendment to R.C. 2152.19 (R.C. 2151.011(B)(38), 2151.35(A)(1), 2151.354(A)(2) and (5), 2151.359(B), and 2152.21(A)(6)).

Technical

The bill appears to make a cross-reference correction in R.C. 2152.26(C)(2).

Effective date

The bill will take effect on January 1, 2002, or on the earliest date permitted by law, whichever is later (Section 3).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	10-11-01	p. 911

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